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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,001	11/17/2000	Jay S. Walker	00-069	7526
22927	7590	12/10/2003	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/713,001

Applicant(s)

WALKER ET AL.

Examiner

Khoi H Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 28-35 is/are pending in the application.
- 4a) Of the above claim(s) 3,7,9,16 and 27-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8,10-15 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

KHOI H. TRAN
PRIMARY EXAMINER

DETAILED ACTION

Election/Restrictions

1. Applicant's elections with traverse of invention Group II, species I, and subspecies A, in Paper No. 7 and 11 is acknowledged.
2. Claims 3, 7, 9, 16, and 28-35 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Grouping and/or species and/or subspecies, there being no allowable generic or linking claim.

The Grouping traversal on the ground(s) that evidence is not provided to show why the claims of Group II are materially different from "a completely audio activated or hands-free beverage dispenser" is not found to be persuasive. Please note per MPEP 806.05(e), only one-way distinctness is generally needed to support a restriction requirement.

The "subspecies" traversal by Applicant is fully noted. Applicant is correct in pointing out that there is no authority to require the restriction of subspecies. However, instead of numbering all of the species permutations from 1-96, as noticed by the Applicant, the "subspecies" notation was done so that Applicant can see the restriction requirement better.

The restriction requirement per paper No 5 is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

The method step of selecting the information item before the offering step must be shown or the feature canceled from claim 2. No new matter should be entered.

The method step of providing the offering before the payment-receiving step must be shown or the feature canceled from claim 6. No new matter should be entered.

The method step of providing change only if the information item is not accepted must be shown or the feature canceled from claim 8. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4-6, 8, 10-15, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satchell, Jr. et al. 5,822,216.

Satchell '216 discloses a method of operating a soda bottle vending machine per claimed invention. The method comprises receiving a payment via cash or credit card for a product. The method comprises receiving a product selection via push button on the vending machine (Figure 1). The method comprises dispensing a product selected by the product selection. The method comprises selecting an information item, i.e. a particular Internet websites, (Figures 9-13). The method comprises offering information

items, i.e. news, financial information, music, from the accessed websites (Figures 9-13). The method comprises audibly reproducing said information item, i.e. music files, at said vending machine. The method also comprises transmitting the information item from an accessed website to a remote suitable receiver capable of receiving and utilizing said information item (column 5, lines 14-18). However, Satchell '216 is silent as to the specific of sending said accessed information to an e-mail address.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have sent any information items from any accessed websites on Satchell '216 vending machine to any particular e-mail addresses for access and utilization thereof because sending information data from a website to a particular e-mail address is commonly well known in the art.

In regards to claims 6 and 13, Satchell '216 vending machine provides commercial offerings before payment is received.

In regards to claim 8, Satchell '216 vending machine provides change after a user decided not to accept said information item.

In regards to claims 17-19, Satchell '216 vending machine provides a menu of information items to a customer on a touch screen display device.

In regards to claim 20, it is obvious that a prompt for the entering of an address is required if a user of a particular website decided to forward the information therein to an e-mail location.

In regards to claim 21, Satchell '216 vending machine provides listing of prices for the information items.

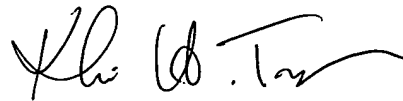
Conclusion

6. Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (703) 308-1113. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Khoi H Tran
Primary Examiner
Art Unit 3651

KHT
12/03/2003